

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

**KRISTINA RAPUANO, VASSIKI CHAUHAN,
SASHA BRIETZKE, ANNEMARIE BROWN,
ANDREA COURTNEY, MARISSA EVANS,
JANE DOE, JANE DOE 2, and JANE DOE 3,**

*Plaintiffs, on behalf of themselves and all
others similarly situated,*

v.

TRUSTEES OF DARTMOUTH COLLEGE,

Defendant.

Hon. Landya B. McCafferty, U.S.D.J.

CASE NO. 1:18-cv-01070 (LM)

**MEMORANDUM OF LAW IN SUPPORT OF
PLAINTIFFS' ASSENTED-TO MOTION TO SEAL**

In accordance with Local Rule 83.12, Plaintiffs Kristina Rapuano, Vassiki Chauhan, Sasha Brietzke, Annemarie Brown, Andrea Courtney, Marissa Evans, Jane Doe, Jane Doe 2, and Jane Doe 3 ("Plaintiffs"), seek to seal (at Level I) Exhibit C (the "Exhibit") to the Declaration of Sara Schwermer-Sween¹ filed in support of Plaintiffs' Motion for Final Approval of the Class Settlement and Plaintiffs' Motion for Attorneys' Fees, Costs, and Service Awards.

The Exhibit contains the identities of the four individuals who have submitted requests to be excluded from the Proposed Class Settlement (the "Opt-Outs"). There is a compelling reason to shield the Opt-Outs' identities from public disclosure given their privacy interests in maintaining anonymity and the significant media attention this action has received.

LEGAL ARGUMENT

¹ Ms. Schwermer-Sween is an employee of the Settlement Administrator in this action, Rust Consulting Inc.

Courts routinely grant a motion to seal so long as there is a compelling reason to do so. *See e.g., Estes v. ECMC Grp., Inc.*, No. 19-CV-822-LM, 2019 WL 5064645, at *2 (D.N.H. Oct. 9, 2019); *In re Providence Journal Co., Inc.*, 293 F.3d 1, 13 (1st Cir. 2002). Here, there is a compelling interest in protecting the identities of the individuals who have chosen to exclude themselves from this settlement. This action, which involves highly sensitive allegations, has been widely covered by the media and extensively discussed on social media. If the Exhibit is publicly filed, the identities of the Opt-Outs will be disclosed to the media and the public. This, combined with the Opt-Outs' significant privacy interests in maintaining their anonymity, presents a compelling reason to seal the Exhibit.

Moreover, sealing the Exhibit is a narrowly tailored solution that protects both the Opt-Outs' privacy interest and the presumption favoring public access to judicial proceedings and records. The public will still have access to the number of individuals who have requested exclusion from this Settlement (four); only the *identities* of the Opt-Outs will be protected from public disclosure.

Pursuant to Local Rule 7.1(c), Plaintiffs' Counsel and Counsel for Dartmouth conferred regarding this Motion. Dartmouth has assented to Plaintiffs' request to seal the Exhibit. Plaintiffs do not seek to seal this motion to seal and/or any related docket text entries.

CONCLUSION

For the above reasons, Plaintiffs respectfully request that the Court enter an order permanently sealing (at Level I) Exhibit C to the Declaration of Sara Schwermer-Sween² filed in support of Plaintiffs' Motion for Final Approval of the Class Settlement and Plaintiffs' Motion for Attorneys' Fees, Costs, and Service Awards.

² Ms. Schwermer-Sween is an employee of the Settlement Administrator in this action, Rust Consulting Inc.

Dated: May 27, 2020

Respectfully submitted,

/s/ Deborah K. Marcuse

Deborah K. Marcuse (admitted *pro hac vice*)

Steven J. Kelly (admitted *pro hac vice*)

Austin L. Webbert (admitted *pro hac vice*)

SANFORD HEISLER SHARP, LLP

111 S. Calvert Street, Suite 1950

Baltimore, MD 21202

Telephone: (410) 834-7420

Facsimile: (410) 834-7425

dmarcuse@sanfordheisler.com

skelly@sanfordheisler.com

awebbert@sanfordheisler.com

David W. Sanford (admitted *pro hac vice*)

Nicole E. Wiitala (admitted *pro hac vice*)

SANFORD HEISLER SHARP, LLP

1350 Avenue of the Americas, 31st Floor

New York, New York 10019

Telephone: (646) 402-5650

Facsimile: (646) 402-5651

dsanford@sanfordheisler.com

nwiitala@sanfordheisler.com

-- and --

Charles G. Douglas, III (NH Bar #669)

DOUGLAS, LEONARD & GARVEY, P.C.

14 South Street, Suite 5

Concord, NH 03301

Telephone: (603) 224-1988

Fax: (603) 229-1988

chuck@nhlawoffice.com

Attorneys for Plaintiffs and the Proposed Class